



**TOWN OF CEDAR LAKE
BOARD OF ZONING APPEALS
PUBLIC MEETING
March 14, 2019 7:00 P.M.**

Call to Order (Time): 7:01 p.m.

Pledge to Flag:

Roll Call:

Present Nick Recupito
Present Jerry Wilkening
Present John Kiepura
Present Jeremy Kuiper
Present Jeff Bunge

Present David Austgen, Town Attorney
Present Tim Kubiak, Director of Operations
Present Michelle Bakker, Building Administrator
Present Tammy Bilgri, Recording Secretary

Minutes:

A motion was made by John Kiepura and seconded by Jeff Bunge to approve the February 14, 2019 Public Meeting Minutes as presented.

Nick Recupito	Jerry Wilkening	John Kiepura	Jeff Bunge	Jeremy Kuiper	Vote
Yes	Yes	Yes	Yes	Yes	5-0

Old Business:

1. Walker - Developmental Variance

Owner/Petitioner: Jason Walker, 15169 North State Rd. 49, Wheatfield, IN 46392
Vicinity: 7619 Lake Shore Dr., Cedar Lake, IN 46303
Legal Description: PT. SW. NW. S.23 T.34 R.9 .054 A.
Tax Key Number(s): 45-15-23-303-010.000-043

Request: Petitioner is requesting a Developmental Variance from Zoning Ordinance No. 496, Title XXIII-Accessory Regulations: Section 1: A. 5) There shall be a minimum six (6) foot setback from any and all side and rear property lines and a minimum ten (10) foot separation or distance from **all** other buildings; **and** Title VIII-Residential (R-2) Zoning: Section 4: E. Building Coverage: Not more than twenty-five percent (25%) of the area of the lot may be covered by buildings/structures

This Developmental Variance is to allow the Petitioner to have an eleven ft. x twelve ft. (11' x 12') shed one ft. (1') from the rear property line, eight ft. (8') from the house with a lot coverage over twenty-five percent (25%)

Deferred from February 14, 2019

- a) Attorney to Review Legals: David Austgen stated this was properly continued.
- b) Petitioner's Comments: None
- c) Remonstrators: None
- d) Building Department's Comments: Tim Kubiak stated the petitioner asked to be deferred, was unable to obtain survey in time for this meeting.
- e) Board's Discussion: None

A motion was made by Jeff Bunge and seconded by John Kiepura to defer to the April 11, 2019 Public Meeting per the petitioner's request.

Nick Recupito	Jerry Wilkening	John Kiepura	Jeff Bunge	Jeremy Kuiper	Vote
Yes	Yes	Yes	Yes	Yes	5-0

New Business:

1. Dessauer - Use Variance

Owner/Petitioner: Heather Dessauer, 13941 Lakeview Point Rd., Cedar Lake, IN 46303
Vicinity: 8600 W. 139th Ct., Cedar Lake, IN 46303
Legal Description: LAKE SHORE ADD. L.7 BL.3 S'LY 90.65FT'W. LINE M.L.8 BL.3 S'LY 13 FT. L.9 BL.3
Tax Key Number(s): 45-15-27-456-012.000-014

Request: Petitioner is requesting a Use Variance from Zoning Ordinance No. 496, Title XII-Neighborhood Business (B-1) Zoning District

This Use Variance is to allow the Petitioner to operate two businesses, a marketing company and real estate office on a lot in a B-1 Zoning District

- a) Attorney to Review Legals: David Austgen stated the legals are in order and the public hearing may be conducted.
- b) Petitioner's Comments: None
- c) Remonstrators: None
- d) Building Department's Comments:
- e) Board's Discussion: Jeremy Kuiper stated the petitioner was called out of town and would like to request a deferral.
- f) Recommendation to Town Council:

A motion was made by Jerry Wilkening and seconded by Nick Recupito to defer to the April 11, 2019 Public Meeting per the petitioner's request.

Nick Recupito	Jerry Wilkening	John Kiepura	Jeff Bunge	Jeremy Kuiper	Vote
Yes	Yes	Yes	Yes	Yes	5-0

2. Rago - Developmental Variance

Owner/Petitioner: John Rago, 8448 W. 139th Avenue, Cedar Lake, IN 46303
Vicinity: 8448 W. 139th Avenue, Cedar Lake, IN 46303
Legal Description: LAKE SHORE ADD. OUT LOT 20 AND OUT LOT 21 & PT. VAC. R. OF W. AD. L.20 & 21
Tax Key Number(s): 45-15-27-407-027.000-014

Request: Petitioner is requesting a Developmental Variance from Zoning Ordinance No. 496, Title VIII-Residential (R-2) Zoning: Section 4: B. Front Yard: 4) On all other streets, a distance of thirty (30) feet

This Developmental Variance is to allow the Petitioner to build an addition to an existing house with a five ft. (5') front yard setback

- a) Attorney to Review Legals: David Austgen stated the legals are in order and the public hearing may be conducted. Mr. Austgen questioned whether Mr. Rago owned the property or if he owned it jointly with his wife. Mr. Rago stated jointly. Mr. Austgen stated the application needs to be amended to show they own it jointly.
- b) Petitioner's Comments: John Rago, 8448 W. 139th Ave., Cedar Lake. Wants to extend the house twelve ft. (12') towards the east or lake. The house is currently five ½ ft. (5' ½") from the lot line on the side, wants to take down current garage that is right on the property line and build an attached garage five ½ ft. (5' ½") from the property line on the south and eight and half ft. (8' ½") from the property line on the west. Actually moving the new garage further away from the property line than the current garage.
- c) Remonstrators: Michael Dolder, 8421 W. 139th Ave., Cedar Lake. Owns the property next door and is for this Variance. This will only improve the neighborhood.
- d) Building Department's Comments: Tim Kubiak stated he is improving on all the setbacks. The new addition will be only two ft. (2') further than the current deck now. He did come in and vacate that alley so he will have an eight ft. (8') side yard. His proposed plan is good for the area. There is no issue on lot coverage because he owns the lot near the lake.
- e) Board's Discussion: The Board discussed locations and setbacks for clarification.

A motion was made by Nick Recupito and seconded by Jerry Wilkening to approve the Developmental Variance as presented contingent the amended application and to include the findings of fact.

Nick Recupito	Jerry Wilkening	John Kiepura	Jeff Bunge	Jeremy Kuiper	Vote
Yes	Yes	Yes	Yes	Yes	5-0

3. Burdan – Use Variance/Developmental Variance

Owner: Scott A. Burdan, 12225 Kennedy St., Cedar Lake, IN 46303
Petitioner: Burdan Brothers Building, LLC, 12901 Wicker Ave., Cedar Lake, IN 46303
Vicinity: 12901 Wicker Ave., Cedar Lake, IN 46303
Legal Description: PT. N2. W2. NW. SW. S.21 T.34 R.9 CONT'G 1 ACRE
'202.04X215.6X181.04X29X195.6FT.'
Tax Key Number(s): 45-15-21-301-001.000-014

Request: Petitioner is requesting a Use Variance/Developmental Variance from Zoning Ordinance No. 496, Title XIV-Neighborhood Business (B-2) Zoning District; **and** Section 5: C. 2) On a lot abutting any Residential Zoning District, or more restrictive Zoning District, there shall be side yard abutting such district having a width of not less than twenty-five (25) feet, which shall be effectively screened from abutting lots by a strip of planting not less than eight (8) feet in ultimate width, such planting

consisting of not less than fifty (50%) percent evergreen material scattered throughout.

This Use Variance is to allow the Petitioner to operate a crematorium within an existing funeral home in a B-2 Zoning District

- a) Attorney to Review Legals: David Austgen stated the legals are in order and the public hearing may be conducted.
- b) Petitioner's Comments: Scott Burdan, 12225 Kennedy St., Cedar Lake. Richard Henn, Henn & Sons Construction, 12733 Wicker, Cedar Lake. Mr. Henn stated they want to add a crematorium and the easiest way is to add to the back of the garage. All crematoriums have to go through this process. Also we need a developmental variance for a side yard setback.
- c) Remonstrators: None
- d) Building Department's Comments: Tim Kubiak stated a concern with losing parking and would they be replacing it. Seems to be a shortage of parking. During large events there is a lot of parking on 129th. Mr. Henn stated they had talked about possibly adding additional parking in the future. Mr. Burdan stated they have discussed parking, we anticipated losing a total of two (2) spots in front of the garage, would not lose any of the parking in the middle. Tim Kubiak stated when people come in trying to expand on these existing buildings, this is something we look at. Mr. Henn does not see an issue with creating additional parking. The Elmwood Chapel has the same set up and there have been zero complaints with this.
- e) Board's Discussion: Discussion ensued possible work to be done on 129th and parking with the addition. The Board discussed adding additional angle parking and the traffic flow. Mr. Henn stated they will not be losing any parking spots at this time. Tim Kubiak stated the parking in front of the garage is not designated as parking, but people use it when it is busy. In the back side behind the garage looks like you can make eight (8) spots. Jerry Wilkening expressed concern with the location on the smoke stack. Tom Kroll, Cremation Systems, the stack is going to be about twenty-one and half ft. (21' ½"). Mr. Henn stated they will apply for State approval. David Austgen suggested a site plan may be needed. Discussion ensued on possible parking locations. Michelle Bakker stated they can require the site plan with the number of parking spaces to be submitted with the building permit application. Jeremy Kuiper stated we can trust the Building Department to enforce this if we give them guidelines.

A motion was made by Jerry Wilkening and seconded by John Kiepora to send a Favorable Recommendation to the Town Council to allow the petitioner to operate a crematorium within an existing funeral home in a B-2 Zoning District contingent upon submitted and approved site plan to the Building Department that maximizes the parallel parking on the southern border of the property and contingent approval of Developmental Variance and to include the findings of fact.

Nick Recupito	Jerry Wilkening	John Kiepora	Jeff Bunge	Jeremy Kuiper	Vote
Yes	Yes	Yes	Yes	Yes	5-0

This Developmental Variance is to allow the petitioner to build a garage with a side yard setback of seventeen point five ft. (17.5')

- a) Attorney to Review Legals: Same as above
- b) Petitioner's Comments: Same as above
- c) Remonstrators: None

- d) Building Department's Comments: Same as above
- e) Board's Discussion: Same as above

A motion was made by Nick Recupito and seconded by Jeff Bunge to approve the Developmental Variance to allow the petitioner to build a garage with a side yard setback of seventeen point five ft. (17.5') contingent on Town Council approval of the Use Variance and site plan submitted to the Building Department to include the maximum number of parking spots on the south side of the building and to include the findings of fact.

Nick Recupito	Jerry Wilkening	John Kiepora	Jeff Bunge	Jeremy Kuiper	Vote
Yes	Yes	Yes	Yes	Yes	5-0

4. Sadler - Use Variance

Owner/Petitioner: Julie Sadler, 13237 Truman Circle, Cedar Lake, IN 46303
Vicinity: 13536 Morse St., Cedar Lake, IN 46303
Legal Description: Woodland Shores Add. Outlot D & Pt. of Outlot A Ly'ng N. of Outlot D
Tax Key Number(s): 45-15-26-179-049.000-043

Request: Petitioner is requesting a Use Variance from Zoning Ordinance No. 496, Title XIV-General Business (B-3) Zoning District

This Use Variance is to allow the Petitioner to have a second (2nd) use for outdoor storage of boats and equipment for Lakefront Maintenance with a six ft. (6') ft. privacy screen fence on the side property line with no buffer

- a) Attorney to Review Legals: David Austgen stated the legals are in order and a public hearing may be conducted.
- b) Petitioner's Comments: Julie Sadler, 13237 Truman Circle, Cedar Lake. Would like parking and storage on the outside of the building. For the work boat, two work trucks and excavator on a trailer. The fence is six ft. (6') wood privacy fence.
- c) Remonstrators: Sher-Lyn Schubert, 7204 W. 136th Ave., Cedar Lake. Have lived here sixteen (16) years and seen this property change hands multiple times, so concerned with how long this business will stay there. Also, concerned with the fifteen ft. (15') buffer. It will go directly up to my driveway and will make it hard to get out of the car. Concerned with using the yard for storage, have been dealing with IDEM and the EPA, there is a buried tank in this yard, has some sort of gasoline, oil, not sure what substance is. Been told by IDEM that it is older than recorded, so therefore is probably a steel tank and it will over time start leaking. Worried about it leaking into the well. Told by the previous owner he would not remove that the new owner would need to do that. Will parking the heavy vehicles over this tank make it break down sooner and leak. A six ft. (6') fence will not cover view from the second story of house. Worried about crime increasing with vehicles left outside. Also, work nights and get home at 3:00 a.m., I sleep when they are starting. Glen Pool, 7207 136th Ave., Cedar Lake. Concerned with fence going up to the property line of her house and how far out to the road, worried about being able to see when pulling onto the road. Also concern with damage they did to road when plowing snow with the bobcat. Sheryl Pool expressed concerns with a piece of equipment chained to a pole in the front and it blocks your vision when pulling out from the road. Vehicles were parked in the grass at their previous business and also blocked visibility.

- d) Building Department's Comments: Tim Kubiak asked what surface she intended and concerns with losing the fifteen ft. (15') buffer zone and with the guide wires in the way. Ms. Sadler stated she was going to use stone for the parking. Mr. Kubiak also expressed concern with how they were going to park all those vehicles in that tight space. Ms. Sadler stated most of her equipment is left on the job site and she will be leasing the building to a business to be determined. Michelle Bakker expressed concern with moving the equipment under the guide wires. Tim Kubiak confirmed there is no fence going on the south or north end, nothing to screen it off from the road. Ms. Sadler stated that is correct, just near the residential side. Tim Kubiak also stated concerns with the guide wires, gravel parking, getting in and out, and mud being dragged onto the road. It is an ambitious use for a small piece of property. Discussion ensued on how they would get in and out of these parking spaces and with the wires. Outdoor storage butting up against a residential area. If you purposed a couple of boat lifts in the winter, that would be a good use, but to have an actual business with all the stuff outdoors on a daily basis. When you were next door the equipment was there a lot. Ms. Sadler stated that was more equipment than I have now.
- e) Board's Discussion: Jerry Wilkening asked about the gravel lot and the fence that is only six ft. (6') high, how many waivers would this variance have. Tim Kubiak stated the ordinance states there is a fifteen ft. (15') buffer between residential and business, so she is asking to put up the six ft. (6') fence in lieu of the buffer zone that would be one. The parking is supposed to be improved asphalt parking and then the two (2) use of storage for one (1) business and the building for another. It would be three (3) waivers. David Austgen stated our problem is we never know. Just to be perfectly candid and to make the record clear, truck says one thing, a trailer says another, some other activity is going on, is what we have experienced. Mr. Wilkening stated he thinks what Mr. Austgen is referring to is we could not establish any hours of operation. Because it is a rotating kind of arrangement. We could not say your hours are 7:00 a.m. to 3:30 p.m., that would not work with your business because daylight runs longer. The variables I am alluding to, that is just a piece of it. Agree with Tim, this is an aggressive use of the property and have concerns for the neighboring properties. Ms. Sadler stated she does not consider it rotating, get there in the morning the vehicles leave for the day and at night some of them will come back and park. Most items will be behind the fence. Jerry Wilkening asked how many months a year she does seawalls, Ms. Sadler stated approximately eight (8). John Kiepura asked how many pieces of equipment she has and how much parking does she need. Ms. Sadler stated she has two (2) trucks, an excavator on a trailer, a skid steer and work boat. Mr. Kiepura asked for clarification on where they would pull in from and if they would have room to turn around or if they would have to back out on the street. Ms. Sadler stated the trucks would have room, the trailers would have to be backed in. Nick Recupito asked for clarification on the variance, if it was to be approved as presented, it would allow this use and then a use to be determined from anything in the B-3 Zoning district. Mr. Austgen reminded the Board what a Variance of Use regulations are: A Variance of Use may be approved only upon a determination in writing that: A. The approval will not be injurious to the public health, safety, morals and general welfare of the community; B. The use and value of the area adjacent to the property included in the Variance will not be affected in a substantially adverse manner; C. The need for the Variance arises from some condition peculiar to the property involved; D. The strict application of the terms of the Zoning Ordinance, as amended from time to time, will constitute an unnecessary hardship if applied to the property for which the Variance is

sought; and E. The approval does not interfere substantially with the Comprehensive Master Plan of the Town. All five (5) of those are the burden and responsibility of the petitioner every time you hear one, no different on this particular petition. You have a Variance of Use that has been applied for, but you have been given a site plan that is an identifier of parking spaces and fencing and the like, but really does not give you a tremendous amount of detail about the business use of the property. Talking about circular traffic that Tim has talked about, John the parking you have asked about and the movement of vehicles on site, the various discussions about screening and the adjacent residential, and we know there is residential adjacent to this that has been approved to be developed and will be built. The uncertainty of the second (2nd) use is completely an open item. The lack of identification on this particular map, at least we have the lot to work with. Ms. Sadler has worked on identifying things on it, but the detail found on here does not match or be revealed or exhibited on the plat as reflected in your ordinance. We have some past history with Ms. Sadler's businesses just right here, with issues of ingress/egress into the property are questioned and need to be identified. Does not mean you cannot do it, means it is not on this document and part of this presentation. Have heard discussion about the parking being gravel or stone, I think you said stone, want to use accurate words. We have utilities that are an issue and potentially in the way. A Variance of Use connotes typically and you have heard a lot of Variances of Use over the years and over time. Usually connotes commitment by the business owner, property owner of adhering to various requirements. Reasonable conditions should be imposed, because they are asking for a Variance of Use that is not strictly approved by our zoning ordinance. Adjacency to 136th Avenue and access to that in two (2) places, one on the west end of the property and two (2) on the east end as it intersects with Morse Street. We do have a history of knowing that improper location of access causes a health and safety ingress/egress problem. We documented that, we know what that is and how it exists and particularly with a business like Ms. Sadler's which she has larger vehicles, these circumstances play a role in how the site should be used. There are so many things, you have complete authority to work through those, get a site plan and a detailed map. John Kiepura expressed concern with taking away the buffer zone, not only for site purposes, but also for sound. Does not believe this property is large enough for what they want to do. He states it is crucial to have a good traffic flow and how to park them. Need more information to see what is good for the business and the neighborhood. Discussion for the buffer zone requirements ensued. Tim Kubiak stated you are looking at a 48x60 area, and that is a small area to put all that stuff in. The employees would have to park in the road and we had complaints from the previous property. Jerry Wilkening said he will not go back in history but with what is in front of him and stated the hardship made mention by Mr. Austgen, the hardship is not with the property, the hardship is you are trying to use it for something more than it is. You are going to gravel the whole lot, did not hear anything about improvements along the road, culvert, blacktop, apron, nothing. You would be gaining fifteen ft. (15') of property for a business and your investment would be gravel and a fence and the neighbors are losing fifteen ft. (15') of a buffer that you want to use for your business. Do not see this as being an improvement, in whole or part. Nick Recupito is concerned with allowing this and an unknown business comes in. Jeremy Kuiper does not think this is an appropriate use for this property. Ms. Sadler asked would it make a difference if she moved the fence over and maintained the buffer. Jerry Wilkening stated it would be the same amount of stuff in a smaller space. Tim Kubiak stated you will have a 33x60

area. Ms. Sadler stated she would only have outdoor storage for Lakefront Maintenance at this location, no office and lease the building to another to be determined business.

A motion was made by Nick Recupito and seconded by Jerry Wilkening to send an Unfavorable Recommendation to the Town Council to allow the Petitioner to have a second (2nd) use for outdoor storage of boats and equipment for Lakefront Maintenance with a six ft. (6') privacy screen fence on the side property line with no buffer and to include the findings of fact: the use and value of the area adjacent to the property will be negatively affected; no hardship; and public safety issues.

Nick Recupito	Jerry Wilkening	John Kiepura	Jeff Bunge	Jeremy Kuiper	Vote
Yes	Yes	Yes	Yes	Yes	5-0

Public Comment: None

Adjournment: Time: 8:29 p.m.

Press Session: Board of Zoning Appeals Meeting – April 11, 2019 at 7:00pm

Nick Recupito

Jeff Bunge, Vice Chairman

Jerry Wilkening

Jeremy Kuiper, Chairman

John Kiepura

Attest: Tammy Bilgri, Recording Secretary

The Town of Cedar Lake is subject to the requirements of the Americans with Disabilities Act of 1990. Individuals with disabilities who plan to attend this meeting and who require certain accommodations in order to allow them to observe and/or participate in this meeting, or who have questions regarding accessibility of the meeting or the facilities, please contact the Town Hall at (219) 374-7400.